IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

THURSDAY, THE 25TH JANUARY 2007 / 5TH MAGHA 1928

WP(C).No. 350 of 2006(N)

PETITIONER:

1. SHAJI MOHAN T.V.,
KUNNUVILA VEEDU, KUNNAPUZHA,
ARAMADA P.O., THIRUVANANTHAPURAM

2. R.MANOJ, SREE RAMAN, ADARSH NAGAR-8.
POTTAKUZHY, PATTOM P.O.,
THIRUVANANTHAPURAM.

3. DIXON SIMON, MADATHUVILA HOUSE,
VIZHAVOOR, MALAYAM P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.HARUN-AL-RASHID

RESPONDENTS:

1. THE STATE OF KERLA REP. BY THE
SECRETARY, DEPARTMENT OF HEALTH,
SECRETRIAT, THIRUVANANTHAPURAM.

2. THE SUPERINTENDENT, GOVERNMENT AYURVEDA
COLLEGE HOSPITAL, THIRUVANANTHAPURAM.

3. THE CHAIRMAN/DISTRICT COLLECTOR,
HOSPITAL DEVELOPMENT COMMITTEE,
GOVERNENT AYURVEDA COLLEGE HOSPITAL,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER, SRI.P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 350 of 2006(N)

APPENDIX

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF THE CERTIFICATE DATED 11/08/2003

EXT.P2 TRUE COPY OF THE CERTIFICATE DATED 31/07/2003

EXT.P3 TRUE COPY OF THE APPOINTMENT ORDER ISSUED IN 2004 DATED 29/06/2005

EXT.P4 TRUE COPY OF APPOINTMENT ORDER ISSUED IN 2005 DATED 10/12/2004

EXT.P5 TRUE COPY OF THE REPRESENTATION DATED 23/12/2005

EXT.P6 TRUE COPY OF THE REPRESENTATION DATED 21/12/2005

RESPONDENT'S EXTS:

EXT.R2(a) TRUE COPY OF CIRCULAR NO.22694/M3/99/H&FWD DATED 04/09/1999.

\\TRUE COPY//

ms/-

K.K.DENESAN, J.

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WP(C).No.350 OF 2006-N.

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Dated this the 25th day of January, 2007.

J U D G M E N T

Out of the three petitioners, the 3rd petitioner has left the service and is not interested in prosecuting this writ petition.

2. The petitioners 1 and 2 were appointed as Electricians in the Government Ayurveda College Hospital, Thiruvananthapuram, temporarily, since April, 2002 and May, 2002. They have sought for a writ of mandamus directing the respondents not to terminate their services till regular hands are appointed.

3. Learned counsel for the petitioner brings to my notice the judgment of this Court in OP.No.6310 of 1999 disposed of by K.Balakrishnan Nair J, on 12-6-2006 issuing directions to the respondents to allow the petitioners therein who were also appointed by the Hospital Development Committee subject to certain conditions incorporated therein. The above judgment was passed in tune with similar directions issued in another judgment where identical claims were made by the petitioners and similar questions arose for consideration. Counsel for the

petitioners submits that the petitioners 1 and 2 are entitled to get similar benefits.

4. Government Pleader submits that steps have been taken to appoint two Electricians through the Employment Exchange and therefore, the directions issued as per the judgment in OP.No.6310 of 1999 may not be issued in the case of the petitioners herein. I am not able to accede to the above submission made by the Government Pleader. It is seen that in the judgment referred to above, there were as many as 92 petitioners and this Court has disposed of the above writ petition directing that they shall be retained in service subject to the existing conditions of employment, till they attain the age of superannuation and subject to the further stipulation that total expenses towards salary of those employed, including the petitioners therein, do not exceed 50% of the income of the Committee. Certain other conditions also have been stipulated. The petitioners are similarly situated. Hence, the denial of similar benefits to these petitioners will offend the doctrine of equality enshrined in Article 14 and 16 of the Constitution of India. Any attempt to isolate these petitioners alone on the ground that the Hospital Development Committee had taken a decision to replace them

by appointing Employment Exchange hands will result in injustice and arbitrariness.

5. The writ petition is disposed of directing the respondents that the conditions subject to which this Court has disposed of OP.No.6310 of 1999 and connected cases will govern the case of petitioners 1 and 2 also. They shall be retained in service subject to those conditions. It is clarified that the disciplinary powers of the competent authority will in no way be affected by this judgment.

K.K.DENESAN, JUDGE.

kvs/-